

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

UNITED STATES DISTRICT COURT

APR 30 2018

for the
District of New MexicoIn the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)A yellow 2006 Chevrolet Cobalt, VIN
1G1AK15F577163593 bearing CO license plate WOJ
983

Case No.

18mr374

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the _____ District of _____ New Mexico _____, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

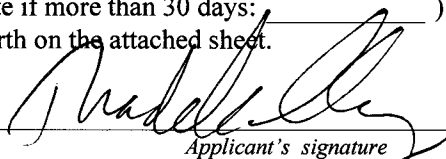
- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
18 USC 1153(b), 1112, 113(a)
(6), NMSA 66-8-102; and
NMSA § 66-8-113

Offense Description
Offenses Committed in Indian Country, Manslaughter, Assault resulting in serious
bodily injury, Driving Under the Influence of Intoxicating Liquor, & reckless driving.

The application is based on these facts:

☒ Continued on the attached sheet.☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Thaddeus Clancy, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date:

4/30/2018

City and state: Albuquerque, New Mexico



Judge's signature

Laura Fashing, U.S. Magistrate
Judge

Printed name and title

AFFIDAVIT

Your Affiant, Thaddeus Clancy, having been duly sworn, does hereby depose and say:

Introduction

1. I have been a Special Agent of the Federal Bureau of Investigation (FBI), United States Department of Justice, since March 2017. As such, I am a “federal law enforcement officer” investigating violations of the United States Code (U.S.C.), and authorized by the Attorney General to request a search warrant. I am currently assigned to the FBI’s Albuquerque Violent Crime Program in which I am authorized to investigate crimes occurring in Indian Country.

2. I submit this application and affidavit in support of a search warrant authorizing a search of a 2001 Ford Taurus, VIN 1FAFP53U51A138202 bearing NM license plate 441 WBX, and a yellow 2006 Chevrolet Cobalt, VIN 1G1AK15F577163593, bearing CO license plate WOJ 983. Based on my training and experience and facts set forth in this affidavit, there is probable cause to search the Taurus and Cobalt for evidence and instrumentalities of violation Title 18 U.S.C. § 1153; Title 18 U.S.C. § 1112; Title 18 U.S.C. § 113(a)(6); NMSA 66-8-102; and NMSA § 66-8-113 further described in Attachment B. I request authority to search the Taurus and Cobalt for items specified in Attachment B, and to seize the items listed in Attachment B as evidence of the crime.

3. This affidavit is based primarily upon information received from eye-witness account(s), other law enforcement agencies and other investigative methods; as well as my training, experience and background as a Special Agent with the FBI. Since this affidavit is being submitted for the limited purpose of securing authorization for the requested search warrant, I have not included each and every fact known concerning this investigation. Instead, I have set forth only the facts that I believe are necessary to establish probable cause for the requested search warrant.

STATUTORY AUTHORITY

4. As stated, this investigation concerns an alleged violation of Title 18 U.S.C. § 1153 (Offenses Committed within Indian Country); Title 18 U.S.C. § 1112 Manslaughter; Title 18 U.S.C. § 113(a)(6) Assault resulting in serious bodily injury; NMSA 66-8-102 driving while under the influence of intoxicating liquor or drugs; and NMSA § 66-8-113 Reckless driving.

Details of Investigation

5. On April 17th, 2018, at approximately 12:45 AM, Navajo Police Department (NPD) notified the Federal Bureau of Investigation (FBI) of two vehicles involved in a collision that occurred on April 16th, 2018 on Navajo Route 9 between Pueblo Pintado, NM and Torreon, NM. The collision resulted in the death of two minors and one adult. Two other occupants of the crash were flown to the University of New Mexico Hospital (UNMH) due to their injuries. The driver of the other vehicle was also flown to UNMH.

6. On April 17th, 2018, S.T. (year of birth 1963) (here after referred to as Witness #1) was interviewed by your Affiant. Witness #1 was traveling with her husband on Route #9 on April 16th, 2018, when they came across a vehicle collision involving two vehicles at approximately 9:10 PM. Witness #1 observed M.N.S. (year of birth 1979) (here after referred to as Jane Doe #1), J.B. (year of birth 1978) (here after referred to as John Doe #1), M.S. (year of birth 2014) (here after referred to as Jane Doe #2), M.S. (year of birth 2008) (here after referred to as John Doe #2), and M.S. (year of birth 2004) (here after referred to as Jane Doe #3) inside of a vehicle. Jane Doe #1 was the driver, John Doe #1 was the passenger, and the children were in the backseat of the vehicle. Witness #1 spoke to the driver of the other vehicle involved in the collision. The male identified himself as ALLEN LEWIS. Witness #1 stated he smelled of alcohol. Witness #1 stopped an oncoming vehicle approaching the incident and requested the individual to call 911.

7. New Mexico State Police Crash Reconstruction Unit responded to the vehicle collision. Sergeant Lauren Milligan, who is in charge of the Crash Reconstruction Unit,

informed your Affiant that a beige 2001 Ford Taurus, bearing NM license plate 441 WBX, and a yellow 2006 Chevrolet Cobalt, bearing CO license plate WOJ 983 were involved in the crash. The scene of the crash occurred on Navajo Route 9 east of mile marker 88. In the area of the crash NR9 was a two lane asphalt road that ran east/west. There was a dashed yellow line separating the eastbound lane from the westbound lane indicating that passing was allowed between the lanes. There were solid white lines on either side of travel lanes with narrow asphalt shoulders. Guard rails paralleled the white lines on the north and south sides of the road. The guardrail on the north side of the road extended further west than the south guardrail. South of the asphalt shoulder was a dirt shoulder. The Cobalt was traveling westbound on Navajo Route 9 in the westbound traffic lane. The Taurus driven by ALLEN LEWIS was traveling eastbound in the westbound travel lane. The driver of the Cobalt attempted to swerve to the left (south) to avoid a collision with the Taurus. The Taurus collided with the Cobalt in the Cobalt's travel lane at an angle into the passenger side of the Cobalt.

8. Sergeant Milligan informed your Affiant that both vehicles are equipped with an Event Data Recorder (EDR) that may have stored information relating to this crash. Sergeant Milligan explained that because this was a night time crash an inspection to examine the lamp filaments on both vehicle needs to be done to determine if these vehicles were visible in the dark.

9. NPD Criminal Investigator Ben Yazzie notified your Affiant that John Doe #1, John Doe #2, and Jane Doe #3 were determined to be dead on site of the vehicle collision. Jane Doe #1, Jane Doe #2, and LEWIS were flown via helicopter to the University of New Mexico Hospital (UNMH) at Albuquerque, NM.

10. UNMH registered nurse T.P. (year of birth 1961) informed your Affiant that LEWIS was brought to the UNMH emergency room at approximately 12:39 AM. LEWIS had an approximate ethanol level of 0.147.

11. UNMH employees informed your Affiant that Jane Doe #1 had the following injuries including: pelvic fracture, sacral fracture, orbital wall fracture on right side, rib fractures, and right pulmonary contusion. Jane Doe #2 had the following injuries including: left radial fracture and right hip fracture.

12. Your Affiant interviewed LEWIS on April 17th, 2018. LEWIS told Affiant that on April 16th, 2018, LEWIS was driving home alone from Crownpoint, New Mexico and departed around 8:30 PM. On the way home, LEWIS pulled over and consumed approximately 16 ounces of alcohol. LEWIS assumed he must of got back on the road but did not remember doing so. LEWIS stated he remembered falling asleep after consuming the alcohol and then woke up in the ambulance. He was not sure exactly what happened to cause the accident.

13. Your Affiant interviewed Jane Doe #1 on April 17th, 2018. Jane Doe #1 stated on April 16th, 2018, she was driving westbound on Route 9 with her boyfriend John Doe #1, and children Jane Doe #2, Jane Doe #3, and John Doe #2. Jane Doe #1 observed a vehicle swerve into her lane of travel. Jane Doe #1 attempted to swerve around the vehicle; however, was unable to avoid the collision. The oncoming vehicle collided into her vehicle and caused the accident.

14. LEWIS stated that he consumed alcohol within his vehicle prior to the crash. Affiant requests to look for alcohol containers within the Taurus.

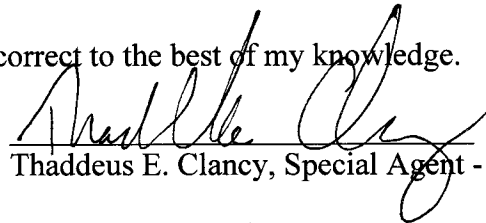
15. Jane Doe #1, Jane Doe #2, Jane Doe #3, and John Doe #2 are enrolled members of the Navajo Nation.

16. LEWIS is an enrolled member of the Navajo Nation.

17. The vehicle collision occurred within the exterior boundaries of the Navajo Nation Indian Reservation.

18. Based upon the information received thus far, there is probable cause to believe that evidence of violation Title 18, United States Code, § 1153 Crimes committed in Indian Country; 1112 involuntary manslaughter; 113(a)(6) assault with serious bodily injury; NMSA § 66-8-102, driving under the influence of intoxicating liquor or drugs; and NMSA § 66-8-113, reckless driving, more fully described in Attachment B is located in the Taurus and Cobalt, described in Attachment A.

19. I swear that this information is true and correct to the best of my knowledge.


Thaddeus E. Clancy, Special Agent - FBI

SUBSCRIBED and SWORN to before
me this 30th day of April, 2018.


United States Magistrate Judge

ATTACHMENT A

Property to Be Searched

A yellow 2006 Chevrolet Cobalt, VIN 1G1AK15F577163593 bearing CO license plate WOJ 983 that is currently located at Highway 64 Truck and Auto Salvage, 4551 US-64 Kirtland, NM 87417

ATTACHMENT B

Particular Things to Be Seized

The following material, which constitutes evidence of the commission of a criminal offense, namely violation of Title 18 U.S.C. § 1153; Title 18 U.S.C. § 1112; NMSA 66-8-102; and NMSA § 66-8-113:

1. Any collision and/or crash data device(s) including but not limited to data stored on/within the internal and/or external memory of the device(s).
2. Item(s) which establish or tend to establish possession, use, occupancy, presence and/or the right to possession of the vehicle to be searched.
3. Documentation and processing of the herein described vehicle and/or the herein described item(s), to be seized, by means of measurement, photography, videography and/or any other means deemed necessary by law enforcement and/or person(s) assisting law enforcement.
4. A vehicle examination of the exterior light bulbs to determine if they were on during the night time crash.